

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

DEBRA TROSPER,
Plaintiff,

v.

**CORPUS CHRISTI RETAIL VENTURE
LP AND SCHINDLER ELEVATOR
CORPORATION,**
Defendants.

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**CIVIL ACTION NO. 2:22-cv-00147
JURY DEMANDED**

DEFENDANT SCHINDLER ELEVATOR CORPORATION'S NOTICE OF REMOVAL

Schindler Elevator Corporation (hereinafter "Schindler") removes the above-captioned case, in accordance with 28 U.S.C. §§ 1332, 1441, and 1446, from the County Court at Law Number 4 of Nueces County, Texas to the United States District Court for the Southern District of Texas, Corpus Christi Division. Schindler would respectfully show this Court as follows:

I.

GROUND FOR REMOVAL

1. Federal Jurisdiction exists pursuant to 28 U.S.C. § 1332 over this lawsuit because it involves parties with diverse citizenship and the amount in controversy exceeds \$75,000. All defendants in this case, proper or improper, have complete diversity of citizenship making removal proper.

II.

BACKGROUND

2. This is purportedly a premises liability and negligence suit arising out of an alleged fall on an escalator, in which diversity jurisdiction exists. *See* Plaintiff's Original Petition, attached as Exhibit A. Plaintiff claims that she fell while descending on escalator located at La Palmera Mall in Corpus Christi, Texas. *Id.* Plaintiff asserts premises liability,

negligence, and gross negligence causes of action against both Corpus Christi Retail Venture LP (“La Palmera Mall”) and Schindler Elevator Corporation. *Id.*

3. Plaintiff is a citizen of Texas. *Id.* Defendant Schindler is a citizen of Delaware, with its principal place of business in New Jersey. *See* Texas Secretary of State Report for Schindler Elevator Corporation, attached as Exhibit B. Defendant Corpus Christi Retail Venture, LP is a citizen of Delaware, with its principal place of business in Illinois. *See* Entity Reports for Corpus Christi Retail Venture, LP, and Related Entities, attached as Exhibit C.

III. **PROCEDURAL HISTORY**

4. On June 1, 2022, Plaintiff filed suit against Schindler and La Palmera Mall in Cause Number 2022CCV-60620-4; *Debra Trosper v. Corpus Christi Retail Venture LP and Schindler Elevator Corporation*; in the County Court at Law Number 4 of Nueces County, Texas. *See* Plaintiff’s Original Petition, attached as Exhibit A. Schindler timely filed its Original Answer on June 27, 2022. *See* Schindler Elevator Corporation’s Original Answer, attached as Exhibit D.

IV. **REMOVAL IS TIMELY**

5. This notice of removal is timely pursuant to 28 U.S.C. § 1446 (b) because it is filed within 30 days of June 6, 2022, the date defendants were served with a summons and copy of the Original Petition and within one year from when Plaintiff commenced its state court action. *See* Service of Process Transmittal Summary, attached as Exhibit E

V. **DIVERSITY OF JURISDICTION EXISTS FOR REMOVAL**

6. Federal removal jurisdiction exists in this case because the parties, Plaintiff and Defendants, are diverse. 28 U.S.C. §§ 1441(a), 1332. Plaintiff is a citizen of Texas. *See*

Plaintiff's Original Petition, attached as Exhibit A. Defendant Schindler is a citizen of Delaware, with its principal place of business in New Jersey. *See* Texas Secretary of State Report for Schindler Elevator Corporation, attached as Exhibit B. Defendant Corpus Christi Retail Venture LP is a citizen of Delaware. *See* Entity Reports for Corpus Christi Retail Venture LP and Related Entities, attached as Exhibit C. On information and belief, all officers, directors and managers of the limited liability company, which serves as Corpus Christi Retail Venture's General Partner, IMI South Texas GP, LLC, are citizens of Illinois. *Id.* On information and belief, all officers, directors and managers of the limited liability company which serves as IMI South Texas GP, LLC's sole member, Institutional Mall Investors, LLC, are citizens of Illinois. *Id.* The sole manager of Institutional Mall Investors, LLC is Miller Capital Advisory, Inc., an Illinois Corporation, with its principal place of business in Illinois. *Id.*

7. The amount in controversy requirement is satisfied. Plaintiff alleges that it seeks monetary relief over \$250,000 but not more than \$1 million. *See* Plaintiff's Original Petition, attached as Exhibit A. Because the Plaintiff and Defendants are completely diverse, and because the amount in controversy exceeds \$75,000, this Court has removal jurisdiction. 28 U.S.C. §§ 1332, 1441.

VI. **PROCEDURAL REQUIREMENT FOR REMOVAL**

8. Venue for this removal is proper under 28 U.S.C. § 1441(a) because this Court is a United States District Court for the district and division corresponding to the place where the state court action was pending – Nueces County.

9. Simultaneously with the filing of this Notice of Removal, a copy of this Notice of Removal has been served on all parties and forwarded for filing with the Clerk of the County Court of Nueces County, Texas in accordance with 28 U.S.C. § 1446(d).

VII.
CONSENT TO REMOVAL

10. Because defendant Corpus Christi Retail Venture, LP has not formally appeared in this matter, no consent is needed at this time.

VIII.
PAPERS FROM THE REMOVED ACTION

11. Pursuant to 28 U.S.C. § 1446(a), the following documents are attached to this Notice of Removal:

Exhibit A:	Plaintiff's Original Petition
Exhibit B:	Texas Secretary of State Report for Schindler Elevator Corporation
Exhibit C:	Entity Reports for Corpus Christi Retail Venture, LP, and Related Entities
Exhibit D:	Schindler Elevator Corporation's Original Answer
Exhibit E:	Service of Process Transmittal Summary
Exhibit F:	State Court Docket Sheet
Exhibit G:	Index of Matters Being Filed
Exhibit H:	List of All Counsel of Record
Exhibit I:	Civil Cover Sheet

12. Schindler reserves the right to amend or supplement this Notice of Removal.

IX.
JURY DEMAND

13. Defendants hereby request a trial by jury.

X.
CONCLUSION

14. This state court action may be removed to this Court by Schindler in accordance with provisions of 28 U.S.C. § 1441(a) because (1) this action is a civil action pending within the jurisdiction of the United States District Court for the Southern District of Texas, Corpus Christi Division; (2) this action is between citizens of different states; and (3) the amount in controversy exceeds \$75,000, exclusive of interests and costs.

WHEREFORE, PREMISES CONSIDERED, Schindler prays for removal of this above entitled and numbered cause from the County Court at Law Number 4 of Nueces County, Texas to this Honorable Court.

Dated: July 6, 2022.

Respectfully submitted,

JOHNSON, TRENT & TAYLOR, L.L.P.

By: /s/ T. Christopher Trent
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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify pursuant to Rule 5, Fed.R.Civ.P., that on this 6th day of July, 2022, a true and correct copy of the foregoing document was forwarded to all counsel of record, by transmitting same via electronic transmission, facsimile and/or mail properly addressed as follows:

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